

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTONIO MENDOZA,

Plaintiff,

v.

Case No. 08-13677

JAN. M. GOLDBERGER, LARRY J. DuRUSSEL,
BONNIE K. DELLAR, CORRECTIONAL
MEDICAL SERVICES, INC., GEORGE
PRAMSTALLER,

HON. AVERN COHN

Defendants.

ORDER
ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND
GRANTING DEFENDANTS JAN M. GOLDBERGER AND CORRECTIONAL MEDICAL
SERVICES' MOTION TO DISMISS
AND
DISMISSING CASE

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff Antonio Mendoza, a state inmate proceeding pro se, has sued several defendants claiming that they were deliberately indifferent to his serious medical needs. Plaintiff's claims stem from an infection he contracted following an appendectomy in 2006. The matter has been referred to a magistrate judge for all pretrial proceedings. Defendants Jan M. Goldberger and Correctional Medical Services (CMS) filed a motion to dismiss on the grounds that plaintiff failed to exhaust his administrative remedies and has failed to state a claim upon which relief may be granted. Plaintiff did not file a response to the motion. On February 3, 2009, the magistrate judge issued a report and recommendation (MJRR) recommending that defendants' motion be granted.

II.

Plaintiff has not objected to the MJRR and the time for filing objections has passed. The Court has reviewed the MJRR and agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Defendants Goldberger and CMS's motion to dismiss is GRANTED. This case is DISMISSED.¹

SO ORDERED.

S/Avern Cohn

AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 23, 2009

I hereby certify that a copy of the foregoing document was mailed to Antonio Mendoza 165298, Lakeland (MSP), Lakeland Correctional Facility, 141 First St., Coldwater, MI 49036 and the attorneys of record on this date, February 23, 2009, by electronic and/or ordinary mail.

S/Julie Owens

Case Manager, (313) 234-5160

¹Plaintiff also sued George Pramstaller. He was dismissed as a defendant sua sponte prior to service. See Order for Partial Dismissal and to Transfer Case, filed August 26, 2008. Plaintiff also sued Larry J. DuRussel and Bonnie K. Dellar. On February 4, 2009, the Court dismissed these defendants without prejudice for failure to effect service. Thus, there are no remaining defendants in the case.